

R E S O L U T I O N Z A - 0 0 0 2 - 2 0 1 3

GRANTING A VARIANCE ON JCC RE TAX PARCEL NO. (47-4) (08-0-0032)

WHEREAS, Kensett Teller, Trustee, has appeared before the Board of Zoning Appeals of James City County (the "Board") on March 7, 2013 to request a variance on a parcel of property identified as JCC RE Tax Parcel No. (47-4) (08-0-0032) and further identified as 126 Lake Drive (the "Property") as set forth in the application ZA-0002-2013; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record and discussed a motion to grant a variance to section 24-238 (b), Yard Regulations, of the Code of James City County (the "County Code") to reduce the required thirty five (35') foot rear yard setback to twenty nine (29') feet solely to allow for the continued placement of the decks shown on the plat entitled "Physical Survey of Lot 32, Section 2 Lakewood for Kensett Teller, Trustee" dated April 2, 2011 which is attached hereto, made part hereof and incorporated into this resolution.

NOW THEREFORE, the Board of Zoning Appeals of James City County by a majority vote of its members FINDS that:

1. The strict application of Chapter 24 of the County Code would produce undue hardship.
2. The hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. Authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
4. By reason of the exceptional narrowness, shallowness, size or shape of the Property, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the Property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of Chapter 24 of County Code would effectively prohibit or unreasonably restrict the utilization of the Property.
5. Granting the variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant.
6. The variance will be in harmony with the intended spirit and purpose of Chapter 24 of the County Code.
7. The condition or situation of the Property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

**WHEREUPON, THE BOARD OF ZONING APPEALS OF JAMES CITY COUNTY
ADOPTS THE FOLLOWING RESOLUTION:**

A variance to section 24-238(b), Yard Regulations, of the County Code reducing the required thirty-five foot (35') rear yard setback to twenty nine feet (29'). This variance is to allow the continued placement of the decks that encroach into the rear yard setback with no further encroachment as shown on the plat entitled "Physical Survey of Lot 32, Section 2 Lakewood for Kensett Teller, Trustee, and dated April 2, 2011" which is attached hereto, made part hereof and incorporated into this resolution.

ATTEST:

Secretary

Chair, Board of Zoning Appeals

March 7, 2013

	Votes		
	Aye	Nay	Abstain
Rhodes	_____	_____	_____
Otey	_____	_____	_____
Rodgers	_____	_____	_____
Campana	_____	_____	_____